

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

8:17CR220

vs.

WILLIAM MERRITT,

Defendant.

ORDER

This matter is before the Court on the “Motion for Transfer for Convenience” ([Filing No. 17](#)) filed by Defendant, William Merritt. Defendant requests the Court change the place of trial from Omaha, Nebraska, to North Platte, Nebraska.

Under Rule 18 of the Federal Rules of Criminal Procedure, “[t]he court must set the place of trial within the district with due regard for the convenience of the defendant, any victim, and the witnesses, and the prompt administration of justice.” [Fed. R. Crim. P. 18](#).¹ Although the court “retains considerable discretion in determining the place of trial, that discretion is contingent upon the court’s consideration of the factors provided in Rule 18 when ruling on a proper motion for change of venue.” [United States v. Worthey](#), 716 F.3d 1107, 1112 (8th Cir. 2013) (quoting [United States v. Stanko](#), 528 F.3d 581, 586 (8th Cir. 2008)).

Defendant submitted an affidavit in support of his motion. ([Filing No. 17-2](#)). Defendant asserts trial in North Platte would be more convenient for him because lives in North Platte with his fiancée and children. Defendant further submits that “[m]any, if not most of the transactions alleged in this action” occurred in North Platte, and that North Platte is a more convenient location for his proposed defense witnesses. Finally, Defendant requests trial in North Platte because his defense counsel is located there. ([Filing No. 17-2](#)).

The government filed a brief opposing Defendant’s motion. ([Filing No. 18](#)). The government objects to changing the place of trial to North Platte due to the increased costs and financial burden to United States taxpayers. However, the Court finds the increased costs to the government does not outweigh the factors this Court must consider under Rule 18 when

¹ Defendant’s motion requests a transfer for convenience pursuant to [Fed. R. Crim. P. 21\(b\)](#). See [Filing No. 17](#). However, Rule 21(b) applies to transfers to another district. Defendant requests the Court change the place of trial within the District of Nebraska, and thus the Court will consider the motion as one to change venue under [Fed. R. Crim. P. 18](#).

determining the place of trial. See [Fed. R. Crim. P. 18](#) (“The court must set the place convenience of the defendant, any victim, and the witnesses, and the prompt administration of justice.”). Upon balancing the Rule 18 factors, for the convenience of Defendant and his witnesses, and in accordance with Rule 18 of the Federal Rules of Criminal Procedure, Defendant’s motion is granted. This case will be transferred to the North Platte trial docket. Accordingly,

IT IS ORDERED: Defendant’s Motion for Transfer for Convenience ([Filing No. 17](#)) is granted. The Clerk of Court shall amend the docket sheet to reflect the place of trial is North Platte, Nebraska.

Dated this 22nd day of August, 2017.

BY THE COURT:

s/ Michael D. Nelson
United States Magistrate Judge

ADMONITION

Pursuant to NECrimR [59.2](#), any party may object to a magistrate judge’s order by filing a “Statement of Objections to Magistrate Judge’s Order” within fourteen (14) days after being served with the order. The party must specify the parts of the order to which the party objects and the legal basis of the objections. Failure to timely object may constitute a waiver of any objection.